

AO 91 (Rev. 11/11) Criminal Complaint

U.S. DISTRICT COURT - N.D. OF N.Y.
<b>FILED</b>
NOV 29 2023
AT _____ O'CLOCK _____
John M. Domurad, Clerk - Plattsburgh

## UNITED STATES DISTRICT COURT

for the  
Northern District of New York

UNITED STATES OF AMERICA )

v. )

Fabio Junior VIEIRA Silva, )

Defendant. )

Case No. 8:23-MJ-694 (GLF)

## CRIMINAL COMPLAINT


I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of November 27, 2023, in the county of Clinton in the Northern District of New York the defendants violated:

*Code Section*  
8 U.S.C. § 1324(a)(1)(A)(ii)

*Offense Description*  
Alien smuggling

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

 11/28/2023  
09:21 AM

*Complainant's signature*

U.S. Border Patrol Agent Dylan J. Thomas

*Printed name and title*

Attested to by the Affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: Nov. 29, 2023

  
*Judge's signature*

City and State: Plattsburgh, New York

Hon. Gary L. Favro, U.S. Magistrate Judge

*Printed name and title*

*Continuation Sheet, United States v. Fabio Junior VIEIRA Silva.*

This criminal complaint is based on the following facts, including information the affiant learned from other law enforcement officials:

On November 27, 2023, at approximately 9:35 A.M., Border Patrol Agents from the Burke Border Patrol Station were located at Dick's Country Store and Music Oasis observing traffic at the intersection of US Route 11 and Lost Nation Road. At that time, an agent observed a black GMC Yukon Denali with no front license plate approach the stop sign southbound on Lost Nation Road at US Route 11.

As the vehicle turned eastbound onto US Route 11, agents saw that the vehicle had a Florida license plate and that the back end of the vehicle appeared to be very heavily laden, suggesting that it was occupied by several people. Lost Nation Road is a north/south county road that runs directly into the US/Canadian international boundary from US Route 11. Lost Nations Road is often utilized by smugglers due its proximity to the border, remoteness, and easy access to main routes of egress. It is unusual to encounter out of state vehicles on Lost Nation Road because it is a very remote area with few houses.

Agents requested a registration check on the Florida plated GMC Yukon Denali, FL 47D-QES, which returned as a rental vehicle, a common mode of transport for alien smugglers because rental vehicles are usually newer and reliable, and, if arrested, the driver does not risk having his/her personal vehicle seized. Agents then attempted to conduct an immigration stop on the Yukon in a marked Border Patrol Tahoe on State Route 11, near the US Route 11 and State Route 189 intersection. The vehicle did not immediately yield to emergency lights and two siren blasts, but eventually stopped approximately one-half mile east of State Route 189 at 9:41 am.

Agents then approached the vehicle and identified themselves as a Border Patrol Agents. Agents questioned the driver regarding his immigration status. The driver, later identified as VIEIRA-Silva, Fabio Junior, claimed to be a citizen and national of Brazil and presented a Brazilian passport. The driver also claimed the eight passengers in the vehicle were his "friends." The front seat passenger was a female who claimed to be a citizen and national of Mexico.

The Agent conducting the inspection then requested the driver to lower the back window so he could question the occupants in the rear seat. At this time, Agents observed two males and two females sitting in the middle row seat and three males sitting in the rear back seat. Agents questioned the additional seven subjects about their immigration status. All eight subjects presented Mexican passports and stated that they are citizens of Mexico and had just entered the United States illegally from Canada and were not in possession of any immigration documents that would allow them to enter, remain, or pass through the United States legally. All eight citizens of Mexico in the vehicle were wet and muddy, and the front seat passenger did not have any shoes on. This suggests that the passengers had crossed the border on foot and walked through a wet/muddy area before entering the Denali. The driver was dry and clean.

All nine subjects were then placed under arrest and transported to the Burke Border Patrol Station for further processing and interviews.

At the station, biographical information and fingerprints were entered into Department of Homeland Security databases for all nine subjects. Record checks confirmed information previously gathered roadside.

VIEIRA-Silva was read *Miranda* rights and agreed to answer questions without a lawyer present. VIEIRA-Silva also gave verbal and written consent to search his cellular telephone. In his interview, VIEIRA-Silva stated that he is an Uber driver and a girl named "Rhary" hired him to pick up some people. VIEIRA-Silva stated that "Rhary" was going to pay him \$800.00 USD for picking up these people. VIEIRA-Silva admitted that, at the

*Continuation Sheet, United States v. Fabio Junior VIEIRA Silva.*

moment of pickup, he was not operating as an Uber driver. VIEIRA-Silva claimed that he has made various trips to the border in the past in his personal vehicle, a Subaru car.

VAZQUEZ-Navarro was read *Miranda* rights and agreed to answer questions without a lawyer present. VAZQUEZ-Navarro also gave verbal and written consent to search his phone. VAZQUEZ-Silva said that he paid \$2,000.00 to a driver that drove him from Toronto to Montreal and then to the Canada/ US border on the Canadian side. VAZQUEZ-Navarro said that he sent the driver of the Denali his location along Mcnierney Rd, Churubusco, NY. VAZQUEZ-Navarro stated that the driver sent him an image of the pickup vehicle (*i.e.*, the Denali) before arriving. He stated that when he and the Mexican citizens entered the vehicle the driver began to smash his cellular telephone while telling all the subjects to delete all messages on their phones. VAZQUEZ-Navarro stated that the driver of the vehicle was upset because there were more individuals than he was supposed to pick up. A preliminary search of VAZQUEZ-Navarro's cellphone revealed that he has several images of the pickup vehicle, along with the "pick up" location he sent to the driver, saved in his "Whatsapp" photo album.